



STATE OF NEW YORK

**UNEMPLOYMENT INSURANCE APPEAL BOARD**

PO Box 15126

Albany NY 12212-5126

**DECISION OF THE BOARD**

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Mailed and Filed: SEPTEMBER 06, 2022

IN THE MATTER OF:

Appeal Board No. 622956

PRESENT: MARILYN P. O'MARA, MICHAEL T. GREASON MEMBERS

In Appeal Board Nos. 622956 and 622957, the claimant appeals from the decisions of the Administrative Law Judge filed April 8, 2022, insofar as they sustained the initial determinations disqualifying the claimant from receiving benefits, effective August 11, 2021, on the basis that the claimant voluntarily separated from employment without good cause; and charging the claimant with an overpayment of \$900.00 in Pandemic Emergency Unemployment Compensation (PEUC) benefits repayable pursuant to § 2107 (e) (2) of the

Coronavirus Aid, Relief, and Economic Security (CARES) Act of 2020, and \$969.00 in Federal Pandemic Unemployment Compensation (FPUC) benefits repayable pursuant to § 2104 (f) (2) of the Coronavirus Aid, Relief, and

Economic Security (CARES) Act of 2020.

At the combined telephone conference hearing before the Administrative Law Judge, all parties were accorded a full opportunity to be heard and testimony was taken. There were appearances by the claimant and on behalf of the employer.

Our review of the record reveals that the case should be remanded to hold a hearing. At the adjourned hearing in this case, the claimant testified that she had requested documentation of her doctor's medical advice to quit this employment, but her doctor's office did not provide this documentation to her in time for the hearing. The Board has determined that the claimant should be afforded another opportunity to obtain and produce this documentation. The claimant is directed to produce this documentation to the Hearing Section at

least three days prior to the remand hearing. The parties are hereby on notice that the Judge also will consider whether the claimant took adequate steps to preserve her employment prior to quitting. At the remand hearing, the Judge shall take such further testimony and evidence as may be necessary to complete the record.

Now, based on all of the foregoing, it is

ORDERED, that the decisions of the Administrative Law Judge, insofar as they sustained the initial determinations of voluntary separation from employment without good cause and recoverable overpayments of PEUC and FPUC benefits, be, and the same hereby are, rescinded; and it is further

ORDERED, that the cases shall be, and the same hereby are, remanded to the Hearing Section to hold a hearing on the issues of voluntary separation from employment without good cause and recoverable overpayments of PEUC and FPUC benefits ONLY, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render new decisions, on the issues of voluntary separation from employment without good cause and recoverable overpayments of PEUC and FPUC benefits, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

MARILYN P. O'MARA, MEMBER

MICHAEL T. GREASON, MEMBER